

House Committee Activity: April 5 - 7, 2004

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Members of Industrial Impact met on Tuesday and Wednesday of this week to complete the business of the subcommittee. Of special interest was the TennCare reform proposal. (See page 5.) The subcommittee is now closed subject to the call of Chairman McKee. Shown are Representatives Roach, Harmon, Curtiss, Walker and Hagood.

Agriculture

Matt Barnes

Full Committee

The **Agriculture Committee** met on Tuesday. At the end of the meeting, Chairman Davidson announced the committee had disposed of all of its legislation. The committee will have guest speakers next week.

- To be studied during interim by Full Committee:

HB 2593 (Clem), as it stands, reduces the certificate fee from \$200 to \$100 for nurseries that are less than one acre in size and have less

than \$30,000 in annual gross sales. In attempting to bring the fiscal note to neutral or possibly positive, Rep. Clem introduced an amendment that would raise the fee from \$200 to \$250 for nurseries with gross sales over \$30,000; for those with gross sales under \$30,000, the fee would be \$100. However, the committee then discussed the issue of a sliding scale, hearing from Mike Countess, Assistant Commissioner of Agriculture, and Jimmy Hopper of Regulatory Services. Both said the department originally submitted a sliding scale to the nursery association two years ago. When the association rejected the scale, the department took the flat fee approach. Several members suggested it would be better to study this issue further

because of potential inaccuracies by nurseries to avoid the higher fee.

HB 2876 (Black) allows administrative heads of public higher education institutions in this state to establish one or more areas within a building or buildings on campus where smokers are allowed to smoke, as opposed to current law that states such an area must be designated in *each* building. Rep. Black said she brought the bill on behalf of the administrative head of Volunteer State Community College; he was present at the committee but did not speak. Rep. McDaniel expressed concern over passing a bill on behalf of one college that affects all colleges in the state. Rep. Dunn, meanwhile, wondered how much study could be done for such a simple issue. The sponsor requested a roll call vote on Rep. McDaniel's motion to study the issue. The motion passed 7-5.

- Taken off notice at sponsor's request:

HB 2886 (McCord) enacts the "Horse Industry Promotion Act," allowing for a statewide referendum, conducted by the commissioner of Agriculture, to determine whether horse owners wish to levy upon themselves an assessment for the creation of a program designed to promote and protect the equine industry through research and education. Rep. McCord said the parties would continue to work on the bill over the summer.

HB 2837 (Maddox) involves the tobacco Master Settlement Agreement (Agreement) and the associated escrow accounts. Present law, passed by 46 states, requires manufacturers either to participate in the Agreement or annually place funds into escrow for each unit of tobacco product sold. The state attorneys general, who also approved the law, discovered what they call a "loophole" that allowed for refunding of amounts paid in excess of what the non-participating manufacturers would have paid had they participated. HB 2900 (Davidson), introduced to close the loophole and, therefore, counter to this bill, passed the House on March 8 and the Senate on April 5.

HB 3335 (Maddox) would have repealed in its entirety the law preempting local governments from regulating tobacco. Rep. Maddox brought with him Dr. Edward Snider, professor of physiology at the University of Tennessee Health Science Center. Dr. Snider said he was actually on vacation and that he was present at the committee only as a volunteer of the American Heart Association. A former smoker who watched his father die of emphysema, Dr. Snider spoke on the benefits of

allowing local governments to enact their own smoking laws. Calling this country a "local government run country," he asked, "Why not?" The sponsor requested the bill be taken off notice after further brief discussion.

The Agriculture Committee will have guest speakers at the next meeting.

Children & Family Affairs

Shannon Romain

Full Committee

In the **full committee**, three bills were referred to Calendar and Rules. **HB 2666** (Rep. Johnson) clarifies that a "material change of circumstances" does not require a parent to show a substantial risk of harm to the child. A material change may include, but is not limited to, significant changes in the needs of the child based on the child's age, the parents working or living conditions, or failure to adhere to the parenting plan. **HB 2845** (Rep. Buck), as amended, prohibits judicial branch employees or their families from contracting with the Department of

Children's Services. It also requires individuals affected by the law to disclose any relevant information on any interest held by them or their family members no later than April 1 of each year. The department is authorized to develop

an appropriate disclosure form. The effective date of the amended bill is July 1, 2004. **HB 3102**, also by Rep. Buck, codifies provisions of the Tennessee Rules of Civil Procedure. It prohibits a stay of an interlocutory or final judgment that changes or affects the custody of a minor child unless the issuing court orders the stay or secures the other party via a bond or by other measures as it sees fit.



Rep. Buck

The following bills were deferred one week:

HB 0137 HB 0781
HB 1464 HB 2346
HB 2899

Family Justice Subcommittee

In the **Family Justice Subcommittee**, **HB 1931** (Rep. Bunch) failed by a 4-3 vote. The bill provided that, under no circumstances, should child abuse be construed to include reasonable corporal punishment by a parent or guardian. According to the sponsor, the legislation was necessary as protection against Supreme Court holdings he felt jeopardized the common law right to corporal punishment.

HB 2257 (Rep. Bowers) was referred to the full committee. The bill was heavily debated. As amended, it creates a



Rep. Bowers

rebuttable presumption that equally shared parenting time is in the best interest of a child unless the court finds by a preponderance of the evidence to the contrary or the parents have agreed to other custody arrangements in open court. The bill does several things. First, it lowers the current burden of proof on which custody determinations are made from "clear and convincing" evidence to a "preponderance of the evidence". Second, it amends current law giving the court the discretion to order joint custody, which may not necessarily result in equal time for both parents. Under the provisions of the amended bill the court must automatically order "equally shared parenting time", guaranteeing each parent equal time with the child, unless an open court agreement is reached or the presumption is rebutted. Third, it lowers from "clear and convincing" evidence to a "preponderance of the evidence" the burden of proof necessary to modify custody orders in subsequent hearings. Finally, it authorizes the court to conduct investigations when necessary to assist in making custodial determinations.

The following bills were deferred for one week:

HB 2245 **HB 2543**
HB 2579 **HB 3103**
HB 3337

HB 1932 (Rep. Bunch) was taken off notice.

The committee is scheduled to hold its final meeting next week.

Domestic Relations Subcommittee

In the **Domestic Relations Subcommittee**, three bills were referred to the full committee. **HB 3315** (Rep. Windle) specifies that the court may imprison a person who violates an order of protection or a court-approved consent agreement for up to 30 days.

HB 0861 (Rep. Bunch) as amended, sets in place provisions to protect the due process rights of persons subject to the child support laws. Under the current law, upon review, the Department of Human Services may modify a child support order if there is a 15% variance in the amount awarded and the income of the obligor. The department may make the change prior to giving notice to either parent. The amendment requires, among other things, that the department give notice prior to making a modification and it guarantees the right to a hearing if the affected party wishes to challenge the modification. The fiscal note on the original bill indicates an increase in state expenditures in excess of \$300,000 (recurring) and a one- time expenditure exceeding \$1,000,000. It further cautions that the state risks up to \$39,000,000 in federal funding if the legislation passes. At this time there is no revised fiscal note on the amended bill.

HB 3121 (Rep. J. DeBerry) redefines grandparent for the purposes of grandparent visitation. Under the original bill, the definition would include a biological grandparent; the spouse of a biological grandparent; and a stepparent's grandparent.



Rep. DeBerry

Amendments to the bill remove "stepparent's grandparent" from the definition and clarify that the definition is not limited to the relationships listed in the legislation.

The following bills were taken off notice in the committee:

HB 1657 **HB 3367**
HB 2733 **HB1862**
HB 3396

The Domestic Relations Subcommittee is closed subject to the call of the chair.

***Domestic Relations
is now closed.***

Commerce

Matt Barnes

Full Committee

The **Commerce Committee** met Tuesday, sending four bills to Finance and rolling five.

- Passed to Finance, Ways and Means:

HB 3240 (Wood), as amended, prohibits a privately owned public utility that supplies water to a municipal government from charging that government for hydrant services when the government provides fire protection services. To recover its costs, the utility may, following a rate proceeding by the TRA, charge non-municipal government customers within the area. Rep. Wood said the amendment makes the provisions applicable only to Chattanooga and requires the municipal government to reimburse the state for any increase in expenditures up to \$50,000 resulting from this bill.

HB 3233 (McKee), as amended, affects only electronically-filed insurance claims and requires health insurance entities, within 5 days, to provide verification to the provider that an electronically-filed claim has been received. Rep. McKee said all the parties are in agreement on this bill.

HB 3361 (Curtiss), as amended, requires that legislation involving health insurance mandates be referred to the Fiscal Review Committee to determine the effect on premiums. The committee shall comment on the impact of each bill by March 15 of each year and shall focus especially on businesses with fewer than 50 employees. The Commerce committee adopted a second amendment that ensures the Fiscal Review Committee hears from the advocates of such mandated benefits.

Several members expressed concern over the possibility of the Fiscal Review Committee's holding up a bill or assuming the powers of standing committees; other members wondered how this bill is any different than the current process for assigning fiscal notes to a bill. Rep. Curtiss said the Fiscal Review Committee would be unbiased and would not hold up a bill or persuade anyone up or down. He said it would simply hear testimony from all sides and determine the true impact on insurance premiums. Further, he pointed out that the current process for assigning fiscal notes addresses only the bottom line of the state, not insurance premiums.

HB 3377 (Fitzhugh) extends the reporting deadline of the predatory lending joint committee from February 28,

2004, to May 1, 2005. Rep. Fitzhugh said the extension was needed because of the federal preemption rule handed down earlier this year.

- Rolled:

HB 3284 (Mumpower) exempts licensed telecommunications contractors from the requirement that they be licensed as an alarm systems contractor if less than 50 percent of their work is related to alarm systems. The bill was rolled for one week.

HB 2513 (McKee) adds McMinn County to present law that lists the counties where motor vehicle racing is permitted no more than three days a week. If racing is conducted on those three days, one of the days must be a Sunday. The bill was rolled two weeks.

HB 2967 (Fitzhugh), with a subcommittee amendment, requires Blue

Cross/Blue Shield to include in its provider networks all hospitals participating in TennCare if the hospitals agree to terms comparable to those agreed to by other network hospitals. Blue Cross/Blue Shield would be prohibited from being eligible to participate in the state employee health insurance plan unless it permitted such hospitals to be contracted providers. Rep. Fitzhugh said the parties are still negotiating but that the amendment takes care of the fiscal note. The bill was rolled one week.



Rep. Fitzhugh

HB 3132 (Turner, B.) has a subcommittee amendment that re-writes the bill and requires all alarm system contractor employees to pass the National Burglar and Fire Alarm Association Level 1 training or equivalent training. Current employees must complete the training within two years of the effective date of the bill, while new employees must complete the training within one year of employment. The amendment also takes care of the \$4,000 original fiscal note, taking whatever costs are involved out of existing reserves. Rep. Turner said the parties are still discussing this bill. The bill was rolled one week.

HB 3230 (Harmon) provides tax credits for sales and use tax payments related to research and development in the fields of advanced computing, biotechnology, electronic device technology, and environmental technology. Rep. Harmon said the parties are still working to address the fiscal note. The bill was rolled two weeks.

Industrial Impact Subcommittee



Industrial Impact met twice this week to wrap up the business of the subcommittee.

Members began hearing **HB 3513** (McMillan) on Tuesday and continued their discussion on Wednesday morning. HB 3513 is one of two administration bills addressing inherent problems in TennCare. As amended, the bill gives the governor broad authority in a number of areas including savings in costs, limitations in pharmacy, and expansion in the number of patients required to present co-payments. The bill addresses fraud and abuse, and it strengthens the definition of "medical necessity."

The hearing room was packed on Wednesday with persons representing various interests. However, only Leader McMillan, along with Jim Shulman of TennCare and Commissioner Dave Goetz, Finance and Administration, spoke on the bill and answered members' questions. Leader McMillan made the following two points: 1) the fraud and abuse



unit will be a separate entity, allowing for better handling of fraud cases and providing investigatory powers after appropriate training; and 2) the "medical necessity" portion of the reform has cost as its main focus, not substandard care.

Rep. Shepard expressed concern over the removal of TennCare from the "Any Willing Provider" law but said he and the pharmacists support the bill and the governor. Pointing out that pharmacy costs especially made the case for reform, Commissioner Goetz said the governor needed the ability to pursue the cheapest pharmaceuticals available but that he may not even put that ability completely to use. Several members expressed concern over smaller pharmacies in their districts and access to pharmaceuticals in rural areas. Leader McMillan said access, as well as cost, was a driving factor in the reform, realizing that not every rural area has a Walgreens, for example.

The bill was sent to full committee, as well as:

HB 3005 (Armstrong). The bill, as amended, allows congregate meal sites, funded through the Commission on Aging and Disability, to save money on permit fees by placing those establishments under the same fee schedule as food service establishments in child care centers.

HB 3330 (Bowers). The sponsor explained that this bill was an effort to correct those instances in which a person, already under a health insurance plan, is refused covered medical treatment due to the person's blood alcohol content. After questions from members, the chair allowed representatives from the insurance industry to testify as to whether this occurs. Those in the hearing room said no, but Rep. Bowers said the bill, brought by the MED in Memphis, addresses an actual problem that the hospital faces. Members agreed to move the bill, and its amendment, to full committee with an understanding that MED representatives would bring documentation of the problem.

Two bills were recommended for further study. **HB 2430** (Overbey) requires health insurance providers to offer coverage for bariatric, and other gastrointestinal surgeries identified by the National Institute of Health, for the treatment of morbid obesity. **HB 1246** (J. DeBerry), a bill initiated by former Rep. Carol Chumney, prohibits automatic termination of coverage for spouses or dependent children in the event of divorce or death of the insured. After the bill failed to get a motion, the committee agreed that the issue was important and should be studied further.

Also discussed Tuesday and deferred until Wednesday was **HB 1651** (Stanley). As amended, the bill deals with pharmacy lock-in programs, preventing consumers from going to a number of pharmacies for prescriptions. Members asked on Tuesday if this was not already in the "Any Willing Provider" law and if TennCare was not already equipped with this provision. Because of the sponsor's absence on Wednesday, the subcommittee closed, subject to the call of the chair, without taking up the bill.

Two other bills, **HB 2732** (Bunch) and **HB 2314** (Head), were rolled and will be heard at the call of the chair. Taken off notice were HB 3050 (McKee), HB 2349 (Ferguson) and HB 1482 (Armstrong).



Chairman McKee

***Industrial
Impact
is now closed.***

Utilities and Banking Subcommittee

The **Utilities and Banking Subcommittee** sent one bill, HB 724, to full committee at its meeting on Tuesday.

HB 724 (Curtiss), as amended, is the result of the ad hoc committee for plumber licensing that met last summer. For now, the bill licenses plumbers for work that has a total cost of less than \$25,000, but Chairman Curtiss said he had hoped to begin inspections also, at least in the rural areas. Because of fiscal constraints, however, he said that would probably have to wait for a couple of years. Rep. Bowers introduced two amendments that failed. The first would have required persons applying for a plumbing license for work in excess of \$25,000 to submit evidence of at least 4,000 hours of experience or an engineering or architectural degree. The second would have allowed counties to enact more stringent requirements for plumbing work in their jurisdictions. Chairman Curtiss said both amendments are outside the scope of what was agreed to by the study committee. Further, several members and guest speakers pointed out that testimony heard throughout the study committee pointed to problems for work under \$25,000 only,

particularly residential work, not for work in excess of that amount.

- Rolled for one week:

HB 2931 (Rinks) increases electrical inspection fees. Rep. Rinks said the parties have been discussing various alternatives to address the problem of rural inspectors not getting paid as much as those in urban areas. He said an urban inspector might visit a subdivision and inspect 15 homes in a day, while a rural inspector, due to the distances between homes, may only inspect a few. He mentioned the possibility of lowering the fee and increasing the mileage; however, both he and Chairman Curtiss said problems could arise with that proposition.

HB 1208 (DuBois) directs the TRA to create a registry for those not wanting to receive unsolicited e-mail messages.

HB 2569 (Hackworth), if amended by the sponsor's proposed amendment, would allow the state to provide tax credits to firms for performing qualified research, defined in the amendment as technological in nature and intended for the development of a new or improved business component. Rep. Hackworth said he believes this bill is a good start for growing the economy. The bill was rolled to allow the members to review the amendment.

Small Business Subcommittee

***The Small Business
Subcommittee is closed.***

Conservation & Environment

Greg E. Adkins

Full Committee

The **full Environment Committee** met on Tuesday, April 6, 2004, and considered four bills. **SJR 797** by Rep. McDonald passed to C&R as amended. The amended resolution supports and encourages private and public participation in "*Threshold: Sustaining a Land Called Tennessee Conference*" that will be held at a location in Chattanooga. **HB 2327** by Rep. McDonald passed to FWM as amended. The amended bill directs

the Water Resources Division of TDEC to investigate the need for public water systems in rural areas of Tennessee. TDEC is required to report to the Chairs of the Conservation and Environment Committees of the House and Senate by January 31, 2005.

HB 3067 by Rep. Hagood was rolled one week. (The amended bill would appropriate \$6 million from the general fund to pay for incentives of 30 cents a gallon to ethanol producers who purchase grain from Tennessee in order to make motor fuel that contains at least 10% ethanol). **HB 2373** by Rep. Baird was taken off notice (Authorized issuance of lifetime sport fishing license for a one-time fee of \$10 to persons who are 100% disabled).

Environment Subcommittee

The **Environment Subcommittee** met on Tuesday, April 6, 2004, and considered eight bills. **HB 39** by Rep. Head passed to the full committee as amended. The amendment rewrites the bill and would authorize that no inspection of a pre-existing subsurface sewage disposal system shall be required from TDEC on property where any single family dwelling, mobile or permanent, is remodeled or added on to by current family members of the single family dwelling unit. **HB 3037** by Rep. Head passed to full committee. The bill deletes obsolete start-up language from the Petroleum Underground Storage Act. **HB 3203** by Rep. Garrett passed to full committee. The bill broadens current statute to also include in a pilot project for sewer systems the use of alternative systems. **HB 3498** by Rep. McMillan passed to full committee as amended. The amendment rewrites the bill and expands vehicle emission regulation in non-attainment areas of the state.

HB 222 by Rep. Turner (Davidson) was rolled to 2005; the amended bill would mandate the use of SMZ's as a best managed practice technique for water quality violations.

The following bills were taken off notice:

- (1) **HB 1159** by Rep. McDonald (chipmill regulation),
- (2) **HB 3206** by Rep. Coleman (amended bill clarifies that TDEC is authorized to issue a stop work order for surface coal mining activities when the mining activities cause actual violations of water quality regulations), (3)
- HB 3496** by Rep. McMillan (allows underground storage tank board to determine appropriate fiscal responsibility for tank owners/operators).

Parks Subcommittee

The **Parks Subcommittee** met on Wednesday, April 07, 2004, and considered two bills. **HB 3136** by Rep. McCord passed to full committee. The bill changes the "maximum" amount matching funds of \$35,000 to a "minimum" amount of funds relative to development of regional plans for tourist promotion. **HB 3383** by Rep. Kernell passed to the full committee as amended. The amendment rewrites the bill and clarifies the geographic size of the Lucius E. Burch, Jr. Natural Area as 788 acres located within Shelby Farms Forest Park in Shelby County. The amendment also requires TDEC to give notice and opportunity for public comment on any proposal to designate new natural area or modify the natural area.

Wildlife Subcommittee

The **Wildlife Subcommittee** met on Tuesday, April 6, 2004, and considered two bills. **HB 1047** by Rep. McCord passed to full committee as amended. The amendment rewrites the bill and changes current law that states hunting signs shall be placed at all major points of ingress and at 250 yard intervals on the perimeter of real property being marked. The amendment would remove the 250-yard requirement. **HB 2672** by Rep. Winningham passed to full committee. The bill exempts residents of counties within the Sundquist Wildlife Management Area from paying special user fees for horseback riding, bicycling, and off-road vehicle use.

Consumer & Employee Affairs

Shannon Romain

Full Committee

The **full committee** met this week. **HB 3093** (Rep. Rinks) was referred to Calendar and Rules. Amendment #1 of to the bill corrects a typographical error. Amendment #2 to the bill adds services performed for companion sitting placement services and that meet federal requirements to the list of services excluded from the definition of employment under the employment security section of the code.

HB 3503 (Rep. McMillan) was referred to Finance, Ways and Means. The bill changes the industrial classification used to determine the reserve ratio for

unemployment insurance premiums. Currently calculated under the Standard Industrial Classification code, upon the effective date of the legislation the ratio will be calculated under the North American Industry Classification System and could reduce premiums.

Consumer Affairs Subcommittee

The **Consumer Affairs Subcommittee** met this week with one bill on the calendar. **HB 0794**(Rep. Buttry) addresses the installation of submeters in apartments. It was deferred one week.

The committee is scheduled to hold it's final meeting on April 14.



Rep. Buttry

Employee Affairs Subcommittee

In the **Employee Affairs Subcommittee**, **HB 0527** (Rep. Windle) was referred to the full committee. It expands the extra-territorial application of Tennessee Workers Compensation Laws to permit a worker injured in another state to file a workers compensation claim in either Tennessee or in the state in which they were injured.

The following bills were deferred one week:

HB 0033	HB2164
HB 3172	HB3401
HB3168	HB3197
HB3198	HB3199

Education

Pam Mason

Full Committee

There were no bills scheduled for the committee's Wednesday meeting. A program on education in the middle grades and incentives for those students was given. Dr. Phil Doss of the Education Accountability Office introduced Jason Walton. Mr. Walton gave a brief background on the Aspire program, presented in

last year's session, and the interest in this area. He then introduced Patricia Moss to speak on Indiana's 21st Century Scholars Program. Following her presentation, the committee heard from Sandy Cole of the UT Chattanooga GEAR UP Program. Each presenter complimented the components of the Aspire program and offered assistance in its further development for the students in Tennessee.

Higher Ed Subcommittee

The Higher Ed Subcommittee had six items on its April 6 calendar. Action on these bills follows.

Recommended to Full Committee if amended:

HB 3524 - (McMillan - Curtiss) directs the state university and community college system and the board of trustees of the University of Tennessee to take necessary steps for the establishment of foundations for the schools under their control. Sets up auditing process for these foundations.

HB 3338 - (Maddox) establishes various guidelines for financial accountability in higher education institutions.

K-12 Subcommittee

At its Tuesday meeting the K-12 Subcommittee acted on the following measures.

Referred to Full Committee:

HB 2976 - (Jones, U.) requires the Department of Education to develop, by 2005-2006 school year, an on-line assessment system that measures student mastery in each subject area tested by the TCAP and Gateway.

HB 2978 - (Jones, U.) requires the Department of Education to establish a demonstration project for videoconference classes in public schools by January 1, 2005.

HB 3523 - (McMillan - Turner, L.) allows local boards of education to determine the number of members on the textbook committees based on size of school system.

HB 2607 - (Winningham) requires that BEP review committee recommendations be reported to the General Assembly prior to convening, if possible.

HB 2759 - (Towns) requires the State Board of Education to promulgate separate weight standards for elementary, middle, and high school students by July 1, 2005.

HB 2783 - (Fowlkes) provides that only healthy foods be available in school vending machines for grades K-8.

Taken off notice:

HB 2937 - (Rinks)

Failed:

HB 2660 - (Briley)

HB 2615 - (DuBois)

Deferred 1 week:

HB 3430 - (McCord)

HB 2979 - (Towns)

HB 3341 - (Maddox)

HB 2409 - (Winningham)

HB 2422 - (Kernell)

HB 2854 - (Winningham)

HB 3261 - (Winningham)

HB 1302 - (Hackworth)

HB 2561 - (Winningham)

HB 3380 - (Winningham)

HB 2427 - (Winningham)

HB 2429 - (Winningham)

HB 3006 - (Armstrong)

Deferred to last Subcommittee Calendar:

HB 2818 - (Turner, L.)

HB 2819 - (Turner, L.)

Finance, Ways & Means

Julie Travis

House Finance, Ways, and Means Committee

Tuesday, April 6, 2004

The full committee met on Tuesday to discuss 23 bills on the full committee's Regular and "Consent" calendars. The three resolutions and one bill on the committee's consent calendar were referred to Calendar and Rules: **HJR 957 (Clem)**, **HJR 930 (Fowlkes)**, **HJR 926 (Rinks)**, and **HB 3180 (Fowlkes)**.

HB 3529 (McMillan), **HB 3539 (McMillan/Fitzhugh)**, **HB 3510 (McMillan/Winningham)**, and **HJR 861 (Brooks, Shelby)** were rolled for one week.

The following bills were referred to Calendar and Rules Committee:

HB 3544 (McMillan/Miller L) -- As amended in the Full Committee, this bill would provide the Department of Revenue with the authority to accept credit cards, debit cards or other similar financial transaction cards for payment of taxes. The department would have the power to wholly or partially offset any cost for accepting payment in this manner. The amendment also specifies the manner in which a taxpayer could file for an extension for Franchise and Excise taxes by allowing the taxpayer to submit a copy of the taxpayer's request for an automatic extension for filing federal income taxes for the same tax period. Additionally, the amendment allows the Commissioner of the Department of Revenue to enter into compliance agreements with taxpayers. As amended, this bill would also provide for a penalty of 50% of the amount of underpayment for negligent non-payment or non-reporting of taxes due, when the taxpayer fails to disclose any transaction to the department of revenue.

HB 3480 (McMillan) -- As amended in Budget Subcommittee, this bill makes technical changes to the law and does the following:

- (1) Permanently repeals the professional privilege tax exemption for state employees.
- (2) Changes the percentage of sales tax distributions to total 100%.
- (3) Clarifies the definition of "service" for business tax purposes.
- (4) Allows companies claiming the jobs tax credit a two year extension, rather than the one year extension provided in current law, to meet the minimum investment requirement for the tax credit.
- (5) Provides a definition of "good cause" indicating that such term would include, but not be limited to, a determination by the Commissioner of the Dept. of Economic & Community Development that the capital investment or jobs are a result of the tax credit provided within the bill.
- (6) Increases the amount of the jobs tax credit against franchise and excise taxes from \$3,000 to \$4,500 in an economically distressed county.
- (7) Stipulates that when any gain not already included in a taxpayer's net earnings or loss on the sale of an asset distributed by the taxpayer to an entity or individual not otherwise subject to excise tax, when such asset is sold within 12 months of the date of distribution, the gain on such a sale is recognized by the taxpayer making the asset distribution rather than the seller.
- (8) Requires entities or individuals not otherwise subject to the excise tax to pay 6.5% of the gain on the sale of an asset under specific circumstances related to the transfer of that asset within 12 months prior to the sale.

(9) Expands the definition of farming that is exempt from excise taxes to include the leasing of land used for farming.

(10) Expands the definition of a family-owned non-corporate entity exempt from the excise tax to include a family-owned non-corporate entity where substantially all of the activity of the entity is the combination of the production of passive investment income and farming.

HB 2629 (Buttry) -- As amended in the Full Committee, this permissive legislation *allows* all law enforcement agencies to open their shooting ranges for public use when not being used by law enforcement personnel. It provides for agencies to establish regulations and a reasonable fee to be charged for persons or organizations using such shooting ranges. Furthermore, it specifies that users of the shooting ranges may be required to make improvements to the range.

HB 226 (Hackworth) -- As amended by the State and Local Government Committee, this bill authorizes a local government to create, *upon adoption of a resolution by a two-thirds vote by the local legislative body*, a grant program for revitalization of substandard residential rental property located in an older residential neighborhood. The amendment outlines the minimum requirements for the grant program and authorizes the local government to establish additional penalties for failure to utilize the grant funds in accordance with the program. In addition, the bill, as amended, specifies that failure to utilize grant funds in accordance with the program is theft of property and punishable as such. Before adoption of the required resolution, the local government is required to hold a public hearing after providing proper notice in a newspaper of general circulation.

HB 3288 (Head) -- Under this bill, as amended by the Full Finance Committee, the present law authority to pledge fees received from a public works project to pay the principal and interest on local government revenue bonds would be extended so that such fees could also be pledged to pay obligations of any local government under any associated interest rate agreement. The amendment specifies that the provisions of the bill apply to any governmental entity created by private act, which has the power to issue revenue bonds and enter into interest rate agreements.

HB 2322 (Hargett) -- This bill prohibits the reimbursement for airplane travel in excess of standard coach fare for the applicable flight, to any official, officer or employee of state government or the

University of Tennessee Board of Trustees or the State Board of Regents, or any institution under their control.

HB 3134 (Armstrong) -- As amended by the Health and Human Resources Committee, this bill requires all hospitals licensed by the Department of Health or the Department of Mental Health and Developmental Disabilities to submit a joint annual report on patient statistics 105 days after the end of their fiscal year. Requires hospitals to provide corrections to the joint annual report to the Department of Health within 15 business days of notification. Authorizes the Department of Health, after consultation with the Tennessee Hospital Association, to request early completion of the report, portions of the report, or special reports. Requires the Department of Health to compile, finalize, and make available an electronic compilation of the statistics reported by the hospitals by November 1 each year.

HB 2830 (Hood) -- As amended by the House Commerce Committee, this bill requires state employed fire prevention and building officials to be certified by the State Fire Marshal to the same degree as municipal and county fire prevention and building officials on January 1, 2005. Requires the State Fire Marshal to accept certification from the National Fire Protection Association to satisfy certain standards. Removes the exception that certain experienced municipal and county building inspectors do not have to be certified. The amendment on the bill removes the grandfather clause for certain experienced municipal and county officials. Letters were obtained from the Dept. of Health and the Dept. of Commerce and Insurance showing absorption of the remaining costs for the bill within the departmental budgets.



Rep. Hood

HB 3181 (Overbey) -- This bill exempts diversified investing funds (more specifically “hedge” funds) from franchise and excise tax liability.

HB 3112 (Bowers) -- As amended by the Children & Family Affairs Committee, this bill requires the court to consider all children for which an obligor is legally responsible for the purposes of calculating child support and deviating from the child support guidelines and equitably allocate child support. This amendment also deems that the birth or adoption of another child for whom the obligor is legally responsible would be a material change in circumstances for the purposes of

seeking review of an existing order. If the addition of the child results in a significant variance, the court may modify the support order. Furthermore, it establishes a significant variance threshold of 7 ½% of the difference between the current child support order and the proposed order for low-income persons.

HB 3526 (McMillan/Armstrong) -- This bill repeals the law concerning “toughman” or “badman” matches, therefore rendering them illegal.

HB 2263 (Cooper B) -- As amended in the Judiciary Committee, this bill specifies that the court clerk has five years from the execution on a judgment for the state against a defendant or the defendant's surety for the amount of bail and costs to demand collection on such judgment.

HB 1418 (McCord) -- As amended by the Conservation and Environment Committee, this bill states that persons, including but not limited to owners and operators of agricultural land, whose storm water runoff is not discharged into storm water flood control facilities of a municipality, shall be exempt from payment of the graduated storm water user fee.

HB 2781 (Todd) -- This bill authorizes the Private Probation Services Council to assess and enforce civil penalties for violations of statutes, rules or orders enforceable by the Council. It also authorizes the Private Probation Services Council to establish fees sufficient to cover expenditures.

HB 2601 (Godsey) -- As amended by the Transportation Committee, this bill will allow any motor vehicle officer investigating a motor vehicle accident to have the parties involved exchange insurance information.

Budget Subcommittee **Wednesday, April 7, 2004**

The Budget Subcommittee of the House Finance, Ways, and Means Committee met to discuss 47 bills on the regular subcommittee calendar this week.

Actions of the Budget Subcommittee are as follows:

Action on the following bills was deferred for one week: **HB 3345 (Armstrong)**, **HB 2302 (Rowland)**, **HB 2519 (Turner M)**, **HB 1474 (Briley)**, **HB 2148 (Matheny)**, **HB 2659 (Briley)**, **HB 2973 (Bowers)**, **HB 2156 (Newton)**, **HB 3 (Casada)**, **HB 2334 (Bowers)**, **HB**

3099 (Jones U), **HB 2625 (Dunn)**, **HB 2586 (Hagood)**, and **HB 2926 (Rinks)**

The Subcommittee first amended and then deferred action on **HJR 776 (Cooper B)**, **HB 2565 (Winningham)**, **HB 2353 (Overbey)**, **HB 306 (Hargett/Stanley)**, and **HB 2762 (Head)**.

HB 76 (Buck), **HB 131 (Buck)**, **HB 3468 (McMillan/Fowlkes)**, **HB 2917 (West)**, **HB 2831 (Hood)**, **HB 3291 (Head)**, **HB 3449 (McMillan)**, and **HB 3467 (McMillan/Coleman)** were deferred for two weeks.

Action on **Representative McMillan's HB 1387** was deferred for three weeks.

Bills that were placed behind the budget include **HB 2271 (DeBerry J)**, **HB 2392 (Curtiss)**, and **HB 3243 (Newton)**.

HB 1567 (Fitzhugh) was taken off notice.

Action on **Representative Patton's HB 779** was deferred to the last calendar.

Both **HB 2510 (Miller L)** and **HJR 890 (Cooper B)** were referred to Speaker Pro Tempore DeBerry's committee on special study committees.

HB 3336 (Maddox) will be referred to a special committee calendar. **Representative McDaniel's HB 418** will be referred to a special committee calendar regarding tax relief for veterans, and **Representative Patton's HB 2540** will be held in the Budget Subcommittee until the special license plate committee convenes.

HB 3302 by **Representative Black** failed to be referred to the Full Committee for lack of a motion.

The following bills were referred to the full Finance, Ways, and Means Committee:

HJR 816 (Bowers) -- As amended by the Budget Subcommittee, this bill encourages the Governor, the Dept. of Correction and the Board of Probation and Paroles to conduct an investigation into the feasibility of utilizing global positioning system (GPS) technology and other tracking and monitoring technology into correctional programs and services. The Department and the Board are directed to periodically inform and advise the Select Committee on Corrections concerning the

findings and recommendations arising from any such investigation.

HB 2554 (Overbey) -- This bill, as amended by the Health and Human Resources Committee, requires smoke detectors and sprinkler systems in all assisted care living facilities and all residential homes for the aged. Facilities without sprinkler systems must install smoke detectors with battery back-up power within 90 days of the effective date of this act. This bill also specifies the dates by which such facilities must have submitted and implemented their sprinkler plans, and by what dates the Department of Health must approve or disapprove such plans.

HB 3508 (McMillan/Brown) -- As amended by the House Transportation Committee, this bill authorizes TDOT to conduct studies to determine whether any group consisting of socially and economically disadvantaged individuals as defined by the federal government are underutilized on state funded construction projects. The amended bill also authorizes the Department to create and implement a surety bond guarantee program for small businesses to act as subcontractors. The Commissioner of TDOT shall annually report in writing the progress of the program to the Speaker of the House and Senate and to the Governor.



Rep. Brown

HB 3537 (McMillan/Pinion) -- This bill, as amended by the Transportation Committee, revises the procedures required of TDOT for closing highway and bridge construction contracts to conform to changes in federal law concerning the retainage by state governments from contractors. Currently, TDOT retains back 3.5% of all earnings on construction projects; this bill conforms to new federal law and deletes that requirement. Furthermore, the bill specifies a time frame over which these changes will take place.

HB 3492 (McMillan/Cobb) -- As amended by the Transportation Committee, this bill grants the Commissioner of TDOT the authority to enter into contracts without going through the normal competitive bidding procedure when faced with a failure of the transportation system, imminent threat of a failure to the transportation system, or other emergency that the Commissioner reasonably believes would present a

hazard to the traveling public or a significant delay in transportation. However, any contract entered into according to the provisions of the bill must be submitted to the Fiscal Review Committee, along with the bid and any other supporting documentation within 30 days.

HB 3482 (McMillan/Coleman) - Authorizes the Commissioner of Commerce and Insurance to require any insurer, who has been placed under administrative supervision, to pay *any and all* appropriate and reasonable costs incurred during the supervision, including any contracted costs.

HB 3495 (McMillan/McDonald) -- This bill, as amended by the Conservation and Environment Committee, authorizes the Commissioner of TDEC to purchase services raw materials, merchandise for resale, supplies and equipment necessary for provision of quality services for state park operations without the approval of any other state agency. The amendment further clarifies that the new law shall not be construed to allow the department to contract for services previously accomplished, or could reasonably be expected to be accomplished, for the parks by state employees.

HB 2758 (Pruitt) -- As amended by the State and Local Government Committee, this bill would exempt from taxation property owned by a religious, charitable, scientific or nonprofit educational institution and operated as a parking garage, when spaces in such garage are leased to a metropolitan government hospital authority for a metropolitan government hospital and the staffing for such hospital by a medical and dental school. More specifically, this bill is referring to the parking garage owned by Meharry Medical College and leased to the Metropolitan Government Hospital Authority. This act shall apply retroactively to January 1, 1998.

Government Operations

Kristina Ryan

The **Government Operations Committee** met on Tuesday, April 6, 2004 to consider nine pieces of legislation. **HB2794** (Ferguson) was taken off notice. **HB 1024** (DuBois), **HB 2460** (Kernell) and **HB 2721** (J. DeBerry) were all rolled for one week and **HB 2713** (Hargett) was rolled to the final calendar.

The committee reviewed and referred **HB 3032** by Representative Brown to the Commerce Committee with a negative recommendation. The bill, as amended, would create an advisory commission on minority economic and community development within the Department of Economic and Community Development. Another amendment added to the bill would allow five appointments to the board to come from any public university in Tennessee.

HB 2459 by Chairman Kernell was sent to the Calendar and Rules Committee. This sunset legislation would extend the Tennessee Student Assistance Corporation until June 30, 2008. The committee heard an overview of the newly adopted Tennessee Lottery Scholarship rules from the Executive Director of TSAC, Michael Roberts.

Other Sunset Extensions

- **HB 2463** (Kernell) - Department of Agriculture - Re-authorized until June 30, 2008.

Health & Human Resources

Judy Narramore

Full Committee

The **Health & Human Resources Committee** met at noon on Tuesday, April 6, 2004, to consider seven bills and two resolutions. **HJR 1026** by Rep. Bowers that designates every August 15 as Tennessee Chronic Kidney Disease Education Day was referred to C&R. **HB 3026** by Rep. Hargrove as amended was referred to C&R. The amended bill expands the eligibility of certain hospitals to participate in the J-1 Visa program for specialty physicians, limits the number of specialty physicians that can be placed in urban areas to 1/3 of the total number of specialty slots, and allows any eligible hospital to apply for any specialty slots still available after June 30. **HJR 0792** by Rep. Pruitt as amended was referred to C&R. The amended resolution creates a House task force to study violent deaths among children, through age 17, in Tennessee, directs the Department of Health and the Commission on Children & Youth to assist the task force with data collection, and requires the task force to report to the 104th General Assembly by January 15, 2005.

HB 2350 by Rep. Briley was discussed and rolled one week with an amendment pending that phases in an increase of the nursing home personal needs allowance for Medicaid patients over three years. The current monthly allowance is \$30; with the amendment, the amount would increase to \$40 in 2005, \$45 in 2006, and \$50 in 2007. The costs of increasing the personal needs allowance from the current rate are to be offset by reducing payments to nursing homes for items unrelated to quality of care. Rep. Overbey discussed a proposed amendment that would rewrite the bill to direct the Comptroller to study the personal needs allowance used by nursing home residents to determine the need for an increase. No action was taken on Rep. Overbey's proposed amendment.

Rep. Sharp presented **HB 2528** and offered a new amendment that the committee substituted for the subcommittee amendment. The proposed amendment rewrites the bill to create a *special volunteer license* for medical practitioners (licensed physicians, dentists, dental hygienists, nurses, chiropractors, psychologists, social workers, and physician assistants) whose sole practice is providing services without pay at a *free health clinic*. These medical practitioners will be exempt from license fees of the regulatory board and the \$400 occupation privilege tax. The free health clinic can not receive payment (individual or third party) for services and can not charge patients for services provided; however, the clinic may accept donations. The bill was rolled one week for review of the amendment.

Rep. Curtiss took **HB 2249** (licensure violation as amended) off notice. The remaining bills on calendar were rolled one week: **HB 3463** by Rep. McMillan (dentist and dental hygienist scope of practice), **HB 3343** by Rep. Armstrong (Department of Aging and Disability), and **HB 3344** by Rep. Armstrong (leisure pools).

Mental Health Subcommittee

The **Mental Health Subcommittee** is closed subject to the call of the chair.

*The
Mental Health
Subcommittee
is closed.*

Professional Occupations Subcommittee

The **Professional Occupations Subcommittee** held its **final meeting** Wednesday morning, April 7, 2004, with five bills on calendar, referring four to full committee.

HB 1149 by Rep. J. DeBerry, Rep. Sontany as amended authorizes the Massage Licensure Board to create minimum requirements (standards and curricula) for, and take disciplinary action against, schools of massage therapy. The amendment also increases the per diem reimbursement for the Board from \$50 to \$100. **HB 3159** by Rep. DuBois as amended specifies various professional identifications in Title 63 (Healing Arts) that may be used with the professional's signature or with printed/written professional materials. The amendment also authorizes the boards of the respective branches of the healing arts to establish sanctions, including penalties and suspension or revocation of license, for violations. **HB 2694** by Rep. Armstrong as amended enacts the "Medication Error Reduction Act of 2004" by requiring that written prescriptions by specified providers be legibly printed or typed. The amendment makes electronic prescriptions subject to the provisions of the bill and adds nurse practitioners and physician assistants to the list of specified providers. **HB 3346** by Rep. Maddox as amended authorizes a podiatrist that was performing ankle surgery prior to 1995 to continue to perform ankle surgery if requirements specified in the amendment are met. **HB 3282** by Rep. Odom (prescription privileges for psychologists) failed for lack of a second.

Public Health & Family Assistance Subcommittee

Wednesday morning, the **Public Health & Family Assistance Subcommittee** had 10 bills on notice. Chairlady Pruitt announced that the final meeting of the subcommittee would be held next week.

Four bills were referred to full committee. **HB 2656** by Rep. Cooper as amended authorizes a health care professional to indicate the need for a dental or vision screening on a child's immunization form and to provide this form to the child's parent/guardian. **HB 2756** by Rep. Pruitt creates a 15-member task force to study and make recommendations on restructuring services for the aged and disabled populations, pursuant to the Comptroller's report entitled "Serving the Aged and Disabled: Progress and Issues" (December 2003). **HB 2757** by Rep. Pruitt directs the Commissioner of the Department of Finance & Administration to study and make recommendations concerning merging functions of agencies serving the elderly and disabled into a single entity based upon recommendations of the December 2003 Comptroller report on the aged and disabled. **HB 3106** by Rep. Ferguson allows the Health Services & Development Agency to issue certificates of need for up to a total of five new beds in nursing homes not certified

for either Medicaid or Medicare. The five new beds must be approved in FY 2004-05.

Rep. West offered three amendments to **HB 3015** (child safety alarms in day care vans) and then rolled the bill one week. The amendments establish a pilot project in Davidson County to require day care agencies to utilize child safety monitoring devices in agency vehicles that transport six or more passengers. Rep. J. DeBerry presented **HB 3368** concerning child safety alarms in day care vans. Prior to rolling the bill one week, Rep. DeBerry discussed a proposed amendment that would authorize the Department of Human Services to promulgate rules requiring the installation of child safety monitoring devices in day care vans that transport six or more passengers. Rep. Odom rolled **HB 3003** concerning permanent cosmetic technicians and operators one week. The remaining bills on calendar were taken off notice: **HB 1485** by Rep. Rowland, **HB 1781** by Rep. Bowers, and **HB 2712** by Rep. Cochran.

Health Care Facilities Subcommittee

The **Health Care Facilities Subcommittee** is closed subject to the call of the chair.

*Health Care
Facilities
is closed.*

Judiciary

Paige Edwards

Criminal Procedure & Practice Subcommittee

On Tuesday, the **Criminal Procedure & Practice Subcommittee** met to consider 13 bills. During the subcommittee meeting, city and county officials from the Upper Cumberland area presented information concerning local problems associated with methamphetamines. The presentations reflected the financial and sociological effects from widespread use of methamphetamines in these rural areas. Before the subcommittee adjourned, two bills were referred to the full committee.

HB 2812 by Representative Matheny, as amended, was approved for passage and referred to the full committee. Representative Briley amended the bill to create a \$9 million dollar grant program to assist rural areas with situations associated with methamphetamines production and use. The grant money would be distributed equally among law enforcement, the district attorneys and the public defenders, and the department of health. Also, this

bill reclassifies ephedrine as a Schedule V controlled substance.

Also, the subcommittee referred **HB 2653** by Representative Cooper to the full committee. **HB 2653**, as amended, addresses citizenship rights for non-violent offenders who are released from incarceration or discharged from parole, probation, pre-trial or judicial diversion or community correction supervision. This bill urges the sentencing court, department of correction, and board of probation and parole to provide such person with information explaining the restoration of citizenship rights.

The remaining bills on the calendar were rolled for one week.

Constitutional Protections Subcommittee

On Tuesday, the **Criminal Protections Subcommittee** met to consider eight bills. HB 3294 by Representative Harwell was taken off notice. HB 2775 by Representative Buttry, HB 3324 by Representative McCord, HB 914 by Representative Hargett, and HB 3269 by Representative Hargett were rolled for one week.

The following three bills were approved for passage and referred to the full committee:

- **HB 2852** by Representative Winningham, as amended, revises the residential restrictions for sexual offenders. Under this bill, no sexual offender shall knowingly establish a residence or any other living accommodation where a minor resides when the minor child is the biological child, stepchild, or adopted child of the sexual offender or any other person. Also, this bill requires the criminal court clerks to provide sexual offender registration/monitoring forms.
- **HB 3232** by Representative McKee, as amended, revises the present law relating to residential and employment restrictions for sexual offenders.
- **HB 2832** by Representative Todd authorizes law enforcement to inform the public when there is a reasonable suspicion that a child or other person may be at risk from a sexual offender. The information would be provided to persons, agencies, or organizations of which the sexual offender is likely to encounter, including public and private educational institutions, day care establishments, and other community members at risk. Under this bill, law enforcement officers

would be immune from suit for disclosing information concerning a registered sexual offender.

Judicial Administration Subcommittee

On Tuesday, the **Judicial Administration Subcommittee** met to consider nine bills. HB 1924 by Representative Bunch, HB 298 by Representative Cochran, HB 299 by Representative Cochran, HB 300 by Representative Cochran and HB 121 by Representative Buck were rolled for one week. HB 2736 by Representative Bunch and HB 3058 by Representative Sargent were taken off notice.

HB 2730 and HB 2742, both of which are sponsored by Representative Bunch, were approved for passage and referred to the full committee.

HB 2730, as amended, provides language that should be contained in a subpoena. Under this bill, each issued subpoena should state that a party being served must appear and failure to appear may put such party in contempt of court. Also, the subpoena should state the penalties that such party may face by being held in contempt of court.

HB 2742 relates to the correction of judgments in general sessions court. Under this bill, a general sessions court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for reasons that include mistake, fraud, a void judgment or a satisfied, released, or discharged judgment. The party seeking relief shall make the motion no more than one year after the judgment, order, or proceeding was entered or taken. The provisions of this bill would not affect the authority of the general sessions court and would apply to all causes of action.

Civil Procedure & Practice Subcommittee

On Wednesday, the **Civil Procedure & Practice Subcommittee** met to consider 27 bills.

The following three bills were approved for passage and referred to the full committee:

- **HB 88** by Representative Buck, as amended, increases the penalty for failure to return process from \$125 to \$150.
- **HB 164** by Representative Buck, as amended, revises the present law relating to prevention or

obstruction of service of process at business establishments. This bill specifies that all employees or agents would be subject to the misdemeanor offense for intentionally preventing or obstructing service of process. This bill requires the process server to exhaust all other location possibilities prior to serving process at a business establishment. The process server would be required to call the business establishment during normal working hours prior to serving process upon the employee sought to be served.

- **HB 591** by Representative Pleasant, as amended, prohibits the display of offensive or patently offensive movies in motor vehicles. Violators would be subject to a fine of no more than \$50.

The remaining bills on the calendar were rolled for one week.

Judiciary Committee

On Wednesday, the **full Judiciary Committee** met to consider 55 bills.

The following two bills were approved for passage and referred to **Finance, Ways, & Means**:



- **HB 166** by Representative Harwell, as amended, states that the implied consent law authorizes law enforcement to request an additional test
- for the purpose of determining the drug content of a person's blood. Under present law, a person who drives a motor vehicle in Tennessee is subject to a BAC test when a law enforcement officer has reasonable grounds to believe that such person is driving under the influence of alcohol.
- **HB 3391** by Representative Briley, as amended, revises the present law relating to telecommunications theft and theft of cable services. This bill creates criminal and civil penalties for theft of these services. This bill contains the recommendations made by the study committee that met during the interim to discuss issues related to telecommunications theft.

The following eight bills were approved for passage and referred to **Calendar & Rules**:

- **HB 2889** by Representative Brooks (Knox), as amended, amends the False Claims Act and prohibits legal action against elected officials if the action is based on evidence or information known to the state or political subdivision when the action is brought.
- **HB 2145** by Representative Davidson, as amended, specifies that a landowner would owe no duty of care to a person who has the landowner's permission to enter or use the land for recreational or educational purposes. Likewise, the landowner would not be required to warn such person of hazardous conditions, structures, uses of, or activities on the land, except for gross negligence, willful or wanton conduct, or injury. Also, this bill revises the waiver provision in the present law.
- **HB 3041** by Representative Briley, as amended, establishes the "Commonsense Consumption Act." This bill exempts a manufacturer, packer, distributor, carrier, holder, seller, marketer, or advertiser of food from civil liability for any claim arising out of weight gain, obesity, or health condition that results from long-term consumption of food. Although, these entities would be civilly liable where there is a material violation of law that is related to food and the claimed injury was proximately caused by such violation. This bill provides requirements for initiating a civil action and preserving evidence that is needed for discovery purposes.
- **HB 3541** by Representative Sontany requires that all guardian ad litem receive training prior to appearing on a child's behalf in a juvenile court proceeding. This bill clarifies the training requirements for nonlawyer special advocates.
- **HB 2356** by Representative Johnson (Loudon), as amended, makes various revisions to the present law relating to notaries. Primarily, this bill would revise the eligibility requirements for individuals who apply for election as a notary. Also, this bill would impose a \$7.00 fee charged by the county clerk when a notary changes residence or principal place of business. This bill sets standards for notary seals.
- **HB 2258** by Representative Briley, as amended, revises the time requirements for completing and submitting results from an autopsy by the county medical examiner. This bill requires an autopsy report to be completed and submitted within 60 days following the examination of a body for a case in which homicide is suspected. For all other cases, the autopsy report would be completed within 90 days following the submission of a body for examination. If the autopsy report is not timely completed and

submitted, a written explanation would be sent to the next of kin and the person requesting the autopsy.

- **HB 3536** by Representative Bowers relates to the confidentiality of medical records. This bill clarifies that medical records shall be available for inspection upon presentment of a signed release. Also, this bill authorizes licensed healthcare personnel to obtain medical records in order to investigate a complaint or conduct a survey. The provisions of this bill would not apply to records that are made statutorily privileged.
- **HB 2924** by Representative Head creates two defenses to a claim that a contractor, subcontractor, or other person misused contract payments for the improvement of real property. Under this bill, there would be no violation when funds are distributed pursuant to a written agreement. Likewise, there would be no violation when funds are used on multiple construction projects and such use is based upon allocation of costs and profits according to generally accepted accounting principles for construction projects. This bill states that the use of a single business bank account for multiple projects shall not be evidence of intent to defraud.

The remaining bills on the calendar were rolled for one week.

State & Local Government

Lawrence Hall, Jr.

Full Committee

This week in **State and Local Government**, the full committee considered **HB 3455**, by Rep. McMillan.



This bill changes the name "Tennessee executive residence preservation foundation" to "Tennessee Residence Foundation". This bill passed to Calendar and Rules. **HB 2619**, by Rep. McDonald, will allow manufacturers of chemical products that submit bid proposals to provide the required material safety data sheet on the manufacturer's web site or a trade

association web site. This bill passed to Calendar and Rules. **HB 2860**, by Rep. Cooper, was passed to Calendar and Rules. This bill defines "special historic district" to allow the serving and consumption of alcoholic beverages at South Main Historic Arts District. **HB 3039**, by Rep. Matheny, as amended, directs TACIR to conduct a study that includes the assessment of emergency telephone services charges upon telecommunications service providers and customers. This bill passed to Finance, Ways, and Means.

State Government Subcommittee

State Government Subcommittee passed **HB 2138**, by Rep. McMillan to the full committee. This bill authorizes the Commissioner of Finance and Administration to disqualify a contractor up to three years from receiving a contract if the commissioner has a reasonable basis to believe that the contractor has been involved in criminal, or improper conduct. **HJR 1009**, by Rep. Cobb names the Tennessee Fire Service Codes Enforcement Academy in Bedford County in honor of former Representative Clarence "Pete" Phillips. This bill was passed to full committee. **HB 2260**, by Rep. Cooper was passed to full committee. This bill requires the Department of Correction to provide an orientation for all inmates prior to their release regarding services for life after incarceration.

Local Government Subcommittee

Local Government Subcommittee passed both **HB 2359** and **HB 2360**, by Rep. Jones (Shelby) to the full committee. These bills will allow the direct appeal to the state board of equalization regarding property assessments. **HB 3272**, by Rep. Jones (Shelby) makes it clear that the law authorizing beer manufactures to operate as a retailer and hold a restaurant license also applies to Pigeon Forge. This bill passed to full committee. **HB 2286**, by Rep. Vincent clarifies the law regarding property tax payer receipts and allowing the receipt that is submitted with the tax notice to be sufficient to satisfy the requirement of providing the tax payer a receipt for payment.

Elections Subcommittee is closed.

***Elections Subcommittee
is closed.***

See Back Page For Transportation. . .

Transportation

Greg E. Adkins



Transportation (file photo)

The **full Transportation Committee** met on Wednesday, April 7, 2004, and considered six bills. **HB 3104** by Rep. Hood was rolled for one week as amended. The amended bill would enact a primary seatbelt law, in which an individual could be pulled over for only a seatbelt violation. **HJR 953** by Rep. West passed to FW&M. The resolution creates a joint study committee to study the need for seatbelts on all vehicles used to transport school children.

The following highway sign bills passed to FW&M:

1. **HB 3412** by Rep. Hargrove--authorizes the "Cookeville Regional Medical Center" Highway sign. The bill was amended to make it subject to local or non-state funding.
2. **HB 3249** by Rep. Davis--designates several segments of highways in Tennessee as the "Purple Heart Trail." The bill was amended to make it subject to local funding.
3. **HB 3084** by Rep. Hagood--authorizes the "Senator Ben Atchley Bridge" highway sign on S.R. 71 over the Tennessee River in Knoxville. The bill was amended to make it subject to local funding.
4. **HJR 997** by Rep. Buck--authorizes the "Veterans Memorial Bridge" on South College Street over U.S. 70 in Smithville, Dekalb County.

Public Safety & Rural Roads Subcommittee

The **Public Safety & Rural Roads Subcommittee** met on Tuesday, April 6, 2004, and considered six bills. **HB 2588** by Rep. Kernell passed to full committee. The bill would require a person issued a driver's license without a social security number to show proof of automobile insurance. **HB 3439** by Rep. Hagood passed to full committee. The bill would ban license plate covers that conceal the information on the license plate (i.e. tinted

material). **HB 2589** by Rep. Hagood passed to full committee. The bill would allow individuals that are not 100% disabled from service-connected disability to obtain a disabled veteran license plate if they pay all of the regular registration fees.

The following bills were rolled one week: (1) **HB 2329** by Rep. Brooks (ban cell phone use while the automobile is in motion for individuals that have a learner, intermediate, or restricted drivers license), and (2) **HB 830** by Rep. Head (increases from three to five years period moratorium for re-issuance of special license plates deemed obsolete or invalid).

HB 3188 by Rep. Jones (Shelby) was taken off notice.

Public Transportation & Highways Subcommittee

The **Public Transportation & Highways Subcommittee** met on Wednesday, April 7, 2004, and considered six bills. **HB 2784** by Rep. Windle passed to full committee. The bill would require that a member of the highway patrol is at every construction site on state and federal roads while workers are present. **HB 3077** by Rep. Ferguson passed to full committee. The bill would authorize administrative issuance of constable special purpose license plates. **HB 2269** by Rep. Bone passed to full committee as amended. The amendment rewrites the bill to name all of S.R. 840 the "Tennessee National Guard Parkway."

The following bills were rolled one week: (1) **HB 2928** by Rep. Rinks, and (2) **HJR 1002** by Rep. Newton.

HB 2370 by Rep. Vincent was taken off notice.
